GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Public Services – Agriculture & Cooperation Department – Sri B. Pome Naik, Special Cadre Deputy Registrar / the then OSD, KDCCB Ltd., Kadapa presently District Cooperative Officer, Kadapa - Departmental Proceedings under Rule 20 of the Andhra Pradesh Civil Services (Classification, Control & Appeal) Rules, 1991 – Article of charge – Orders - Issued.

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AGRICULTURE AND COOPERATION (VIG.II) DEPARTMENT

G.O.RT.No. 821 Dated: 19-12-2017

Read:-

Letter Rc.No.6641/2012/SG-3, dt:07.12.2017 of the Special Commissioner for Cooperation and Registrar of Cooperative Societies, A.P., Guntur.

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ORDER:-

It is proposed to hold an enquiry against Sri B. Pome Naik, Special Cadre Deputy Registrar/ the then Officer on Special Duty, Kadapa District Central Bank Ltd., Kadapa presently District Cooperative Officer, Kadapa in accordance with the procedure laid down in Rule 20 of the A.P Civil Services (Classification, Control & Appeal) Rules 1991.

2. The substance of the imputations of misconduct or misbehavior in respect of which the inquiry is proposed to be held is set out in enclosed statement of Article of charges (Annexure–I). A list of documents by which, and a list of witnesses by whom, the article of charge are proposed to be sustained are also enclosed (Annexure–II & III).

3. Sri B. Pome Naik, Special Cadre Deputy Registrar / the then OSD, KDCCB Ltd., Kadapa presently District Cooperative Officer, Kadapa is directed to submit within 10 days of the receipt of this order, a written statement of his defense.

4. Sri B. Pome Naik, Special Cadre Deputy Registrar / the then OSD, KDCCB Ltd., Kadapa presently District Cooperative Officer, Kadapa is informed that an enquiry will be held only in respect of those Article of charges as are not admitted. He should, therefore, specifically admit or deny each Article of charge.

5. Sri B. Pome Naik, Special Cadre Deputy Registrar / the then OSD, KDCCB Ltd., Kadapa presently District Cooperative Officer, Kadapa is further informed that if he does not submit his written statement of defence on or before the date specified in pare-3 above further action will be processed based on the material available.

6. Attention B. Pome Naik, Special Cadre Deputy Registrar/the then OSD, KDCCB Ltd., Kadapa presently District Cooperative Officer, Kadapa is invited to Rule 24 of the Andhra Pradesh Civil Services (Conduct) Rules, 1964, under which no Government servant shall bring or attempt to bring any political or outside influence to bear upon any superior authority to further his interest in respect of matters pertaining to his service under the Government. If any representation is received on his behalf from another person in respect of any matters dealt with in these proceedings, it will be

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presumed that Sri B. Pome Naik, Special Cadre Deputy Registrar / the then OSD, KDCCB Ltd., Kadapa presently District Cooperative Officer, Kadapa is aware of such a representation and that it has been made at his instance and action will be taken against his for violation of Rule 24 of the Andhra Pradesh Civil Services (CC&A) Rules, 1991.

7. The receipt of the orders shall be acknowledged.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

B.RAJSEKHAR
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To
Sri B. Pome Naik, Special Cadre Deputy Registrar / the then OSD, KDCCB Ltd., Kadapa presently District Cooperative Officer, Kadapa through the Spl. CC&RCS, A.P., Guntur.
Copy to:-
The Special Commissioner for Cooperation & Registrar of Cooperative Societies, A.P., Guntur with a request to serve the charge memo on the individual and furnish dated acknowledgement to this office.
SF/ SC.

// FORWARDED :: BY ORDER //

SECTION OFFICER

ANNEXURE – I

Article of Charge 1:-

That Sri B.Pome Naik, Special Cadre Deputy Registrar / District Cooperative Officer, Kadapa while working as Officer on Special Duty, Kadapa District Central Bank Ltd., Kadapa colluded with CEO, PACS Mannuru and individual loanee members and disposed off the lands assigned to loanees by the Government with criminal conspiracy. The action of the SCDR/OSD is against NABARD guidelines which exhibited wilful official misconduct, unlawful to official duties. The action of the SCDR/OSD also amounts to neglect of duties and failure in the performance of the duties required by the Act & Rules, and Government instructions and violation of Rule (3) of APCS Conduct Rules, 1964.

Basis of the charge:-

As per the report of DCO, Kadapa dt.25-07-2011 and report U/s 51 of Inquiry Officer/DCO, Kadapa, dt.31-03-2014

a. Loan of Rs.40,000/- was sanctioned to Sri Dontam Ramaiah on 06.01.2010. Notice U/s 71 of APCS Act was issued to the individual on 30.08.2010 for recovery of Rs.40,675/- by the SCDR/OSD on the requisition of CEO, PACS, Mannuru. The SCDR/OSD issued certificate U/S 71 of APCS Act on 20.09.2010 for recovery of Rs.41,995/- with further interest at 11.75%. The immovable property (assigned land) to the extent of 4.20 Acres put for sale in open auction and was knocked down for Rs.4,55,000/- on 27.12.2010.

b. Loan of Rs.40,000/- was sanctioned to Sri J.Chandra Sekhar on 06.01.2010. Notice U/s 71 of APCS Act was issued to the individual on 30.08.2010 for recovery of Rs.41,112/- by the SCDR/OSD on the requisition of CEO, PACS, Mannuru. The SCDR/OSD issued certificate U/S 71 of APCS Act on 20.09.2010 for recovery of Rs.42,380/- with further interest at 11.75%. Immovable property(assigned land) to the extent of 4.20 Acres put for sale in open auction and sale was knocked down for Rs.3,03,000/- on 27.12.2010.

c. Loan of Rs.40,000/- was sanctioned to Smt J.Saraswathi on 06.01.2010. Notice U/s 71 of APCS Act was issued to the individual on 30.08.2010 for recovery of Rs.41,112/- by the SCDR/OSD on the requisition of CEO, PACS, Mannuru. The SCDR/OSD issued certificate U/S 71 of APCS Act on 20.09.2010 for recovery of Rs.42,380/- with further interest at 11.75%. Immovable property(assigned land) to the extent of 4.00 Acres put for sale in open auction and sale was knocked down for Rs.5,02,000/- on 27.12.2010.

d. As per NABARD guidelines the SAO(CKCC) loans become overdue after one year from the date of sanction of loan. In these cases loan was sanctioned in January 2010 and legal action initiated in August 2010 i.e. before due date.

Hence, the charge.

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Article of Charge-2 :

That Sri B.Pome Naik, Special Cadre Deputy Registrar/District Cooperative Officer, Kadapa while working as Officer on Special Duty, Kadapa District Central Bank Ltd., Kadapa disposed off the Government assigned lands violating the provisions of Section 3 of AP Assigned lands (POT) Act 1977 exhibited wilful official misconduct, unlawful to official duties. The action also amounts to neglect of duties and failure in the performance of the duties required by the Act & Rules, and Government instructions and violation of Rule (3) of APCS Conduct Rules, 1964.

Basis of the charge:-

As per the report of DCO, Kadapa dt.25-07-2011 and report U/s 51 of Inquiry Officer/DCO, Kadapa, dt.31-03-2014, irregularities committed by Sri Pome naik, JR/DCO (U/s) when he worked as SCDR/OSD, DCCB, Kadapa in disposal of (3) EPs pertaining to sale of DKT Patta lands of Sri J.Chandrasekhar, Smt J. Saraswathi and Sri D. Ramaiah, members of Mannur PACS.

The above three members whose assigned lands auctioned were admitted and sanctioned loans without the approval of the Managing Committee of the society. The CEO, Mannuru PACS filed application U/s 71 of APCS Act 1964 for recovery of dues in loans sanctioned to the said three members before due date. The SCDR/OSD, DCCB, Kadapa entertained the applications filed by CEO, Mannuru PACS even though the loans have not become NPA and issued certificates U/S 71 of APCS Act 1964. The sale process conducted is in violation of Rules and to benefit some persons by providing valuable Government lands in veil of Cooperative Act. Sale notices were served by the CEO, PACS, Mannuru instead of by the Sale Officer. As stated by the CEO, Mannuru PACS, the sale process was conducted in the office of the society itself by Sri B.Pome Naik, SCDR/OSD, DCCB Ltd., Kadapa. Sri P.Chandraiah, SI/Sale Officer and some other persons, the CEO and other staff members of the society were not allowed in to the room where the sale process conducted.

The loanees have also given consent to dispose off the land assigned to them by the Government which is in violation of the provisions of Sec 3(2) of AP Assigned lands (POT) Act 1977. The lands were assigned by the Government to the landless poor persons for their livelihood subject to the condition of non alienation. The SCDR/OSD, CEO, PACS Mannuru and individual loanee members colluded with each other and disposed off the lands assigned to them by the Government.

The action of the then SCDR/OSD in disposal of assigned lands is against the provisions of Section 3 of AP Assigned lands (POT) Act 1977. As per Section 3 of AP Assigned lands(POT) Act 1977, the assigned lands shall not be transferred and shall be deemed never to have been transferred and accordingly no right or title in such assigned land shall vest in any person acquiring the land by such transfer. Any transfer or acquisition made in contravention of this provision shall be deemed to be null and void. As per Section 5 of AP Assigned lands(POT) Act 1977, no registering officer shall accept for registration of any document relating to the transfer of or creation of any interest in assigned land.

Hence, the charge.

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Article of Charge -3 :

That Sri B.Pome Naik, Special Cadre Deputy Registrar/District Cooperative Officer, Kadapa while working as Officer on Special Duty, Kadapa District Central Bank Ltd., Kadapa disposed off the Government assigned lands disproportionate to the dues violating the Rule (52) of APCS Rule, 1964 which exhibited wilful official misconduct, unlawful to official duties. The action also amounts to neglect of duties and failure in the performance of the duties required by the Act & Rules, and Government instructions and violation of Rule (3) of APCS Conduct Rules, 1964.

Basis of the charge:-

As per the report of DCO, Kadapa dt.25-07-2011 and report U/s 51 of Inquiry Officer/DCO, Kadapa, dt.31-03-2014, irregularities were committed by Sri Pome naik, JR/DCO (U/s) when he worked as SCDR/OSD, DCCB, Kadapa in disposal of (3) EPs of pertaining to sale of DKT Patta lands of Sri J.Chandrasekhar, Smt J. Saraswathi and Sri D. Ramaiah, members of Mannur PACS.

a. Loan of Rs.40,000/- was sanctioned to Sri Dontam Ramaiah on 06.01.2010. Notice U/s 71 of APCS Act was issued to the individual on 30.08.2010 for recovery of Rs.40,675/- by the SCDR/OSD on the requisition of CEO, PACS, Mannuru. The SCDR/OSD issued certificate U/S 71 of APCS Act on 20.09.2010 for recovery of Rs.41,995/- with further interest at 11.75%. Immovable property(assigned land) to the extent of 4.20 Acres put for sale in open auction and was knocked down for Rs.4,55,000/- on 27.12.2010.

b. Loan of Rs.40,000/- was sanctioned to Sri J.Chandra Sekhar on 06.01.2010. Notice U/s 71 of APCS Act was issued to the individual on 30.08.2010 for recovery of Rs.41,112/- by the SCDR/OSD on the requisition of CEO, PACS, Mannuru. The SCDR/OSD issued certificate U/S 71 of APCS Act on 20.09.2010 for recovery of Rs.42,380/- with further interest at 11.75%. Immovable property(assigned land) to the extent of 4.20 Acres put for sale in open auction and sale was knocked down for Rs.3,03,000/- on 27.12.2010.

c. Loan of Rs.40,000/- was sanctioned to Smt J.Saraswathi on 06.01.2010. Notice U/s 71 of APCS Act was issued to the individual on 30.08.2010 for recovery of Rs.41,112/- by the SCDR/OSD on the requisition of CEO, PACS, Mannuru. The SCDR/OSD issued certificate U/S 71 of APCS Act on 20.09.2010 for recovery of Rs.42,380/- with further interest at 11.75%. Immovable property(assigned land) to the extent of 4.00 Acres put for sale in open auction and sale was knocked down for Rs.5,02,000/- on 27.12.2010.

As per Rule 52 (5)(d) of APCS Rules, 1964 when the value of the land is on higher side such portion may be put for sale in proportion of amount due. In the instance case, total approximate value of the land is 2.50 crores per acre, whereas the sale was made at Rs.1.20 lakhs per acre. The outstanding dues in these 3 cases are around Rs.40,000/- to Rs.45,000/-. Hence, half an acre of land is enough to clear the outstanding dues. But the SCDR/OSD, DCCB, Kadapa disposed off the entire assigned land mortgaged to the society in public auction and returned the balance of sale proceeds to the borrowers duly adjusting the dues. The action of the SCDR/OSD is in

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violation of Rule 52 (5)(d) of APCS Rules 1964, in which it was specified that the property distrained shall be as nearly as possible proportionate to the sum due by the defaulter together with interest and all expenses incidental to the distrait, detention and sale.

Hence, the charge.

Article of Charge-4 :

That Sri B.Pome Naik, Special Cadre Deputy Registrar/District Cooperative Officer, Kadapa while working as Officer on Special Duty, Kadapa District Central Bank Ltd., Kadapa disposed off the Government assigned lands violating the instructions of District Collector which exhibited wilful official misconduct, unlawful to official duties. The action also amounts to neglect of duties and failure in the performance of the duties required by the Act & Rules, and Government instructions and violation of Rule (3) of APCS Conduct Rules, 1964.

Basis of the charge:-

As per the report of DCO, Kadapa dt.25-07-2011 and report U/s 51 of Inquiry Officer/DCO, Kadapa, dt.31-03-2014, irregularities committed by Sri Pome naik, JR/DCO (U/s) when he worked as SCDR/OSD, DCCB, Kadapa in disposal of (3) EPs pertaining to sale of DKT Patta lands of Sri J.Chandrasekhar, Smt J. Saraswathi and Sri D. Ramaiah, members of Mannur PACS.

The above three members, whose assigned lands auctioned, were admitted and sanctioned loans without the approval of the Managing Committee of the society. Assigned lands were put to sale in Mannuru PACS by the SCDR/OSD, DCCB, Kadapa on filing the arbitrations by the society.

The GM of the DCCB, Kadapa informed to the SCDR/OSD that as per the instructions issued by the District Collector, mortgaged assigned lands after 17.06.1999 shall be auctioned only with permission of the District Collector/Government.

The District Collector, Kadapa has informed vide reference No.G2/4764/2010, dt.27-01-2012 that not to mortgage the assigned lands hereafter duly mentioning the directions of High Court in the W.P.No.13994/2009 dt.06-12-2010 and as per the Govt. Pleader's written opinion that the land is mortgage on 24.02.1998 pertaining to the DKT lands i.e., in between 18.06.1996 to 17.06.1999 as per G.O.Ms.No.255 Food & Agril. (Coop.IV) Dept., dated 19.06.1997.

Further it is informed that if any mortgaged cases after 17.06.1999 are noticed they cannot be auctioned and all such cases shall be brought to the notice of the District Collector and Government.

But, in the instant case, as per the deposition given by the Chief Executive Officer namely A.Subba Rayudu of Mannur PACS that the loans have been sanctioned during the period from 2008 to 2011 on pledging the DKT lands. Thus, the above loans sanctioned by Mortgaging the DKT lands by violating the instructions given by the District Collector in his letter dated 27.01.2012 addressed to the General Manager of the said Bank in turn has informed to the SCDR/OSD in his Urgent Memo.Rc.No.ADM./2011-12,

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dt.15.2.2012 that the date after 17.06.1999 mortgage assigned lands shall be auctioned only with permission of the District Collector/ Govt. and also informed that not to mortgage the assigned lands hereafter and the SCDR/OSD was requested to follow the instructions of the Dist. Collector, Kadapa with immediate effect.

In the instant case, out of 38 cases covered under EP only 03 cases the assigned lands were put to sale by the SCDR/OSD without obtaining the necessary permission from the Dist. Collector, Kadapa. Thus, it is concluded that the SCDR/OSD has committed in violation of instructions of the District Collector/ Govt. having put to sale the assigned lands of the defaulters.

Hence, the charge.

Article of Charge -5 :

That Sri B.Pome Naik, Special Cadre Deputy Registrar/District Cooperative Officer, Kadapa while working as Officer on Special Duty, Kadapa District Central Bank Ltd., Kadapa disposed off the Government assigned lands and confirmed the sale without waiting for orders from CC&RCS on the clarification sought by him in his letter dated 15.03.2013, thereby exhibited wilful official misconduct, unlawful to official duties. The action also amounts to neglect of duties and failure in the performance of the duties required by the Act & Rules, and Government instructions and violation of Rule (3) of APCS Conduct Rules, 1964.

Basis of the charge:-

As per the report of DCO, Kadapa dt.25-07-2011 and report U/s 51 of Inquiry Officer/DCO, Kadapa, dt.31-03-2014 irregularities committed by Sri Pome naik, JR/DCO (U/s) when he worked as SCDR/OSD, DCCB, Kadapa in disposal of (3) EPs pertaining to sale of DKT Patta lands of Sri J.Chandrasekhar, Smt J. Saraswathi and Sri D. Ramaiah, members of Mannur PACS.

The above three members, whose assigned lands auctioned, were admitted and sanctioned loans without the approval of the Managing Committee of the society. Assigned lands were put to sale in Mannuru PACS by the SCDR/OSD, DCCB, Kadapa on filing the arbitrations by the society.

Subsequently, the highest bidders in the auction conducted under the supervision of SCDR/OSD filed 3 W.Ps No.39038, 39036 & 39057 of 2012 for not confirming the sale and for not issuing sale certificate.

The Hon'ble High Court issued orders directing the respondents i.e. CC&RCS, SCDR/OSD and Sale Officer to confirm the sale and issue necessary sale certificate infavour of the petitioners and also clarified that if there are any objections by the third party, it was open for the respondents to consider such objections independently un influenced by the findings of the Court.

The SCDR/OSD, DCCB, Kadapa requested office of the CC & RCS on 15.03.2013 to accord permission to execute the directions of Hon'ble High Court as there are no objections by the 3rd party in these cases. But without getting clarification, confirmed the sale on 23-03-2012.

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All the above facts were brought to the notice of G.P. for Cooperation, High Court, Hyderabad vide letter No.17334/2011/PC3, dt.17-05-2013 of the CC & RCS, AP., Hyderabad and requested the GP to examine the entire issue and take immediate necessary action for filing an appeal on the orders of Hon'ble High Court, Hyderabad in respect of above W.Ps. The G.P. was also reminded in the matter on 05.07.2013. But no action was taken for filing appeal by the GP.

A detailed report in the matter with the above facts was also sent to the Government vide letter No.17334/2011/PC3, dt.23-07-2013 of the CC & RCS, AP., Hyderabad, requesting the Government to examine the entire issue and take immediate necessary action for filing an appeal on the orders of Hon'ble High Court in the said WPs since the action taken for sale of DKT lands has no legal sanctity as the same is in contradiction with the provisions of AP Assigned Lands (POT) Act 1977. Orders are awaited from the Government.

As the matter stood, the SCDR/OSD without waiting for orders from CC&RCS on the clarification sought by him in his letter dated 15.03.2013, issued orders confirming the sale immediately after expiry of one month from the date of receipt of order of the Hon'ble High Court in WPs filed by the bidders.

Hence, the charge.

B.RAJSEKHAR
SPECIAL CHIEF SECRETARY TO GOVERNMENT

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SECTION OFFICER

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ANNEXURE – II

List of documents by which the Draft article of charge framed against Sri B. Pome Naik, Special Cadre Deputy Registrar/the then OSD, KDCCB Ltd., Kadapa presently District Cooperative Officer, Kadapa are proposed to be sustained:

1) Lr.Rc.No.251/2006-C1, dt.25-07-2011 of the DCO, Kadapa.
2) Procgs.Rc.No.17334/2011/PC3, dt.21-09-2012 of the CC & RCS, AP., Hyderabad.
3) Procgs.Rc.No.17334/2011/PC3, dt.17-05-2013 of the CC & RCS, AP., Hyderabad addressed to the G.P. for Cooperation, High Court, Hyderabad.
4) Procgs.Rc.No.17334/2011/PC3, dt.23-07-2013 of the CC & RCS, AP., Hyderabad addressed to the Government.
5) Copy of report of Inquiry U/s 51 of APCS Act, 1964 into the affairs of the PACS, Mannuru, YSR District Kadapa submitted by Sri C.S.Chandra Sekhar, SCDR/the then DCO, Kadapa/Inquiry officer.
6) Cory of Lr.Rc.No.251/2006-DCO/CDP/2014, dt.31-03-2014 of the DCO, Kadapa/Inquiry officer (further Inquiry report)

B.RAJSEKHAR
SPECIAL CHIEF SECRETARY TO GOVERNMENT

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SECTION OFFICER

ANNEXURE – III

List of witnesses by whom the Draft article of charge framed against Sri B. Pome Naik, Special Cadre Deputy Registrar/the then OSD, KDCCB Ltd., Kadapa presently District Cooperative Officer, Kadapa are proposed to be sustained:

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B.RAJSEKHAR
SPECIAL CHIEF SECRETARY TO GOVERNMENT

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